

The Claims:

This listing of claims replaces all prior versions and listings of claims in the application. Claims 13, 32 and 33 have been canceled.

Listing of Claims:

1. (Currently Amended) A counterbalance for use with a tailgate of a motor vehicle, said counterbalance comprising a protective housing having a first and a second end, said first end being attached to said tailgate, and said second end being attached to said vehicle body, said counterbalance at least partially controls a load applied to the counterbalance by the tailgate comprising an elastic element that at least partially counters the load, and a flexible extension limiter that provides a stop which defines a fully extended position of counterbalance and which counters loads applied by the tailgate to the counterbalance after said counterbalance is in said fully extended position; wherein said counterbalance pivots from an angled position to a substantially vertical position as the tailgate is moved from an opened to a closed position, wherein said protective housing comprises a first member and a second member, said second member being received within an opening of said first member, said second member having at least one projection to form a gap between said first and second members.

2. (Currently Amended) The counterbalance as defined in claim [[1]] 41, wherein said elastic element is a spring.

3. (Withdrawn) The counterbalance as defined in claim 1, wherein said flexible extension limiter is a material cord.

4. (Withdrawn) The counterbalance as defined in claim 2, wherein said flexible extension limiter is a material cord.

5. (Currently Amended) The counterbalance as defined in claim ~~[[1]]~~ 41, wherein said flexible extension limiter is a material strap.

6. (Original) The counterbalance as defined in claim 2, wherein said flexible extension limiter is a material strap.

7. (Currently Amended) The counterbalance as defined in claim ~~[[1]]~~ 41, wherein said protective housing at least partially covers said elastic element and said flexible extension limiter.

8. (Withdrawn) The counterbalance as defined in claim 4, including a protective housing that at least partially covers said elastic member and said flexible extension limiter.

9. (Previously Amended) The counterbalance as defined in claim 6, wherein said protective housing at least partially covers said elastic element and said flexible extension limiter.

10. (Withdrawn) The counterbalance as defined in claim 7, wherein said fully extended position is greater than twice the length of said protective housing in a non-extended position.

11. (Withdrawn) The counterbalance as defined in claim 8, wherein said fully extended position is greater than twice the length of said protective housing in a non-extended position.

12. (Withdrawn) The counterbalance as defined in claim 9, wherein said fully extended position is greater than twice the length of said protective housing in a non-extended position.

13. (Canceled)

14. (Withdrawn) The counterbalance as defined in claim 7, wherein said protective housing includes at least three tubes, at least two of said tubes having an opening that telescopically receives at least a portion of another of said second tubes.

15. (Withdrawn) The counterbalance as defined in claim 11, wherein said protective housing includes at least three tubes, at least two of said tubes having an opening that telescopically receives at least a portion of another of said second tubes.

16. (Withdrawn) The counterbalance as defined in claim 12, wherein said protective housing includes at least three tubes, at least two of said tubes having an opening that telescopically receives at least a portion of another of said second tubes.

17. (Withdrawn) The counterbalance as defined in claim 14, wherein said fully extended position is greater than twice the length of said protective housing in a non-extended position.

18. (Withdrawn) A counterbalance for use in a motor vehicle that is connected to an aperture cover to at least partially control the movement of the

aperture cover comprising an elastic element that at least partially counters said load applied to said aperture cover, a flexible extension limiter that provides a stop which defines a fully extended position of counterbalance and which counters said load applied to said aperture cover when said counterbalance is in a fully extended position, and a protective housing that at least partially covers said elastic member and said flexible extension limiter, said protective housing extendable to a length that is greater than twice the length of said protective housing in a non-extended position.

19. (Withdrawn) The counterbalance as defined in claim 18, wherein said aperture cover is a tailgate that moves between a fully opened position when said counterbalance is in said fully extended position and a fully closed position when said counterbalance is in a non-extended position.

20. (Withdrawn) The counterbalance as defined in claim 18, wherein said elastic member includes a member selected from the group consisting of a coil spring, a pitched spring, rubber band, and bungee cord.

21. (Withdrawn) The counterbalance as defined in claim 19, wherein said elastic member includes a member selected from the group consisting of a coil spring, a pitched spring, rubber band, and bungee cord.

22. (Withdrawn) The counterbalance as defined in claim 18, wherein said flexible extension limiter includes a flexible structure selected from the group consisting of a band, belt, cable, chain, cord, strap, and web.

23. (Withdrawn) The counterbalance as defined in claim 21, wherein said flexible extension limiter includes a flexible structure selected from the group consisting of a band, belt, cable, chain, cord, strap, and web.

24. (Withdrawn) The counterbalance as defined in claim 18, wherein said protective housing includes at least three tubes, at least two of said tubes having an opening that telescopically receives at least a portion of another of said second tubes.

25. (Withdrawn) The counterbalance as defined in claim 23, wherein said protective housing includes at least three tubes, at least two of said tubes having an opening that telescopically receives at least a portion of another of said second tubes.

26. (Cancelled)

27. (Currently Amended) In combination:
a tailgate of a motor vehicle; and
a counterbalance assembly comprising:

a housing having a first end attached to said tailgate and a second end attached to said vehicle body, said housing rotates between an angled orientation and a vertical orientation with respect to said body as said tailgate is moved between a fully opened position and a fully closed position; said housing comprises a protective housing having a first member and a second member slidably received within an opening of said first member, wherein said second member comprises at least one projection to form a gap between said second member and said first member;

an elastic element that at least partially counters a load applied by the tailgate to the counterbalance during movement of the tailgate to said fully opened position; and

a flexible extension limiter which provides a stop which defines a fully extended position of counterbalance and which counters loads applied by the tailgate after the tailgate is in said fully opened position.

28. (Currently Amended) The combination as defined in claim 27 43, wherein said elastic element is a spring.

29. (Currently Amended) The combination as defined in claim 27 43, wherein said flexible extension limiter is a material strap.

30. (Previously Presented) The combination as defined in claim 28, wherein said flexible extension limiter is a material strap.

31. (Currently Amended) The combination as defined in claim 27 43, wherein said ~~housing comprises a~~ protective housing that at least partially covers said elastic element and said flexible extension limiter.

32. (Canceled)

33. (Canceled)

34. (Cancelled)

35. (Currently Amended) The counterbalance as defined in claim ~~43~~ 41, wherein said first tube is attached to said vehicle body, and said second tube is attached to said tailgate.

36. (Currently Amended) The counterbalance as defined in claim ~~[[1]]~~ 41, wherein when said counterbalance is in a fully extended position, said protective housing is oriented at an angle between said tailgate and said vehicle body.

37. (Currently Amended) The counterbalance as defined in claim ~~[[1]]~~ 41, wherein when said counterbalance is in a fully retracted position, said protective housing is oriented in a vertical position with respect to said vehicle body and said tailgate.

38. (Currently Amended) The counterbalance as defined in claim ~~33~~ 43, wherein said first tube is attached to said vehicle body, and said second tube is attached to said tailgate.

39. (Currently Amended) The counterbalance as defined in claim ~~27~~ 43, wherein when said counterbalance is in a fully extended position, said housing is oriented at an angle between said tailgate and said vehicle body.

40. (Currently Amended) The counterbalance as defined in claim ~~27~~ 43, wherein when said counterbalance is in a fully retracted position, said housing is oriented in a vertical position with respect to said vehicle body and said tailgate.

41. (Currently Amended)
The A counterbalance as defined in claim 13, for use with a tailgate of a motor vehicle, said counterbalance comprising a protective housing having a

first and a second end, said first end being attached to said tailgate, and said second end being attached to said vehicle body, said counterbalance at least partially controls a load applied to the counterbalance by the tailgate comprising an elastic element that at least partially counters the load, and a flexible extension limiter that provides a stop which defines a fully extended position of counterbalance and which counters loads applied by the tailgate to the counterbalance after said counterbalance is in said fully extended position; wherein said counterbalance pivots from an angled position to a substantially vertical position as the tailgate is moved from an opened to a closed position, wherein said protective housing includes a first and second tube, said first tube having an opening that telescopically receives at least a portion of said second tube, wherein said second tube comprises a plurality of ribs extending from an outer surface of said second tube .

42. (Previously Presented) The counterbalance as defined in claim 41, wherein said ribs form a gap between said outer surface of said second tube and an inner surface of said first tube.

43. (Currently Amended) ~~The counterbalance as defined in claim 33,~~
In combination:

a tailgate of a motor vehicle; and

a counterbalance assembly comprising:

a housing having a first end attached to said tailgate and a second end attached to said vehicle body, said housing rotates between an angled orientation and a vertical orientation with respect to said body as said tailgate is moved between a fully opened position and a fully closed position, said housing comprises a protective housing having a first tube and a second tube;

said first tube having an opening that telescopically receives at least a portion of said second tube;

wherein said second tube comprises a plurality of ribs extending from an outer surface of said second tube;

an elastic element that at least partially counters a load applied by the tailgate to the counterbalance during movement of the tailgate to said fully opened position; and

a flexible extension limiter which provides a stop which defines a fully extended position of counterbalance and which counters loads applied by the tailgate after the tailgate is in said fully opened position.

44. (Previously Presented) The counterbalance as defined in claim 43, wherein said ribs form a gap between said outer surface of said second tube and an inner surface of said first tube.